Government of Kerala
1984

Reg. No. KL/TV(N)/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXIX] Trivandrum, Monday, 30th July 1984 / 8th Sravana 1906 (Saka) [No. 680

GOVERNMENT OF KERALA

Home (E) Department

NOTIFICATION

G.O. Rt. No. 2066/84/Home. *Dated, Trivandrum, 25th July, 1984.*

S. R. O. No. 881/84—Under clause (s) of section 2 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), and in modification of the notification issued under G. O. Rt. 1274/73/Home dated the 10th August, 1973, and published in the Part I of the Kerala Gazette No. 35 dated 28th August 1973, in so far as it relates to the location and area of jurisdiction of Chemmangal Police Station, the Government of Kerala hereby declare that the building No. C-29/169-1 in ward No. 8 of Calicut City Corporation, situated in T. Survey No. 191 of Nagaram Amsom, Kozhikode Taluk shall be a Police Station known as " Chemmangad Police

Station" with jurisdiction over the local areas specified under column (4) of the Schedule below :

SCHEDULE

Name of Police Station	*Taluk*	*Village*	*Local areas of Jurisdiction-Desoms*
(1)	(2)	(3)	(4)
Chemmangad	Kozhikode	Nagaram	1. Pallikandi
			2. Kundungal
			3. Chemmangad
			4. Parappil
			5. Mukadar
			6. The road from Kallai bridge north to Francis Road Junction.

This notification shall come into force on and with effect from 1st August 1984.

By order of the Governor,

P. V. RADHALAKSHMI,
Additional Secretary (Home).

Explanatory Note

(This is not a part of the notification, but is intended to indicate its general purport)

The building in which Chemmangad Police Station is now located is very old and in verge of collapse. So it is decided to shift the Police Station to the building in which the Calicut Town Police Station is also accommodated. This notification is being issued to achieve the above object.

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Government of Kerala
1984

Reg. No. KL/TV(N)/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXIX] Trivandrum, Monday, 30th July 1984 / 8th Sravana 1906 [No. 684

GOVERNMENT OF KERALA

Law (Legislation-A) Department

NOTIFICATION

No. 8644/Leg.(A)2/84/Law. *Dated, Trivandrum, 30th July,* 1984/ *8th Sravana,* 1906.

The following Ordinance promulgated by the Governor on the 30th day of July, 1984, is hereby published for general information.

By order of the Governor,

K. Sreedharan,
Law Secretary.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1984.

33/3282/MC

ORDINANCE No. 61 OF 1984

THE ABKARI (AMENDMENT) ORDINANCE, 1984

Promulgated by the Governor of Kerala in the Thirty-fifth Year of the Republic of India.

AN

ORDINANCE

further to amend the Abkari Act I of 1077.

Preamble.—WHEREAS the Abkari (Amendment) Ordinance, 1983 (37 of 1983), was promulgated by the Governor of Kerala on the 1st day of November, 1983;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be passed by the Legislative Assembly of the State of Kerala during its session which commenced on the 25th day of November, 1983 and ended on the 20th day of December, 1983;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Abkari (Amendment) Ordinance, 1984 (13 of 1984) was promulgated by the Governor of Kerala on the 7th day of January, 1984;

AND WHEREAS a Bill to replace Ordinance 13 of 1984 by an Act of the Legislature could not be passed by the Legislative Assembly of the State of Kerala during its session which commenced on the 2nd day of March, 1984 and ended on the 27th day of March, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance, 13 of 1984, the Abkari (Amendment) Ordinance, 1984 (34 of 1984) was promulgated by the Governor of Kerala on the 13th day of April, 1984;

AND WHEREAS a Bill to replace Ordinance 34 of 1984 by an Act of the Legislature could not be passed by the Legislative Assembly of the State of Kerala during its session which commenced on the 18th day of June, 1984 and ended on the 27th day of July, 1984;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 34 of 1984 will cease to operate on the 30th day of July, 1984;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

AND WHEREAS instructions from the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution of India;

Now, Therefore, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Abkari (Amendment) Ordinance, 1984.

(2) It shall be deemed to have come into force on the 3rd day of November, 1983.

2. *Act I of* 1077 *to be temporarily amended.*—During the period of operation of this Ordinance, the Abkari Act, I of 1077 (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 and 4.

3. *Amendment of section* 57.—In section 57 of the principal Act, in clause (a),—

(i) for the words "any noxious drug," the words "any drug, other than a noxious drug", shall be substituted;

(ii) after the words "any article prohibited", the brackets and words "(other than an article which the Government shall deem to be noxious)" shall be inserted.

4. *Insertion of new sections* 57*A and* 57*B*.—After section 57 of the principal Act, the following sections shall be inserted, namely:—

"57A. *For adulteration of liquor or intoxicating drug with noxious substances, etc.*—(1) Whoever mixes or permits to be mixed any noxious substance or any substance which is likely to endanger human life or to cause grievous hurt to human beings, with any liquor or intoxicating drug shall, on conviction, be punishable,—

(i) if, as a result of such act, grievous hurt is caused to any person, with imprisonment for a term which shall not be less than two years but which may extend to imprisonment for life, and with fine which may extend to fifty thousand rupees;

(ii) if, as a result of such act, death is caused to any person, with death or imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life, and with fine which may extend to fifty thousand rupees;

(iii) in any other case, with imprisonment for a term which shall not be less than one year, but which may extend to ten years, and with fine which may extend to twenty-five thousand rupees.

Explanation.—For the purposes of this section and section 57B, the expression "grievous hurt" shall have the same meaning as in section 320 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

(2) Whoever omits to take reasonable precautions to prevent the mixing of any noxious substance or any substance which is likely to endanger human life or to cause grievous hurt to human beings, with any liquor or intoxicating drug shall, on conviction, be punishable,—

(i) if, as a result of such omission, grievous hurt is caused to any person, with imprisonment for a term which shall not be less than two years but which may extend to imprisonment for life, and with fine which may extend to fifty thousand rupees;

(ii) if, as a result of such omission, death is caused to any person, with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life, and with fine which may extend to fifty thousand rupees;

(iii) in any other case, with imprisonment for a term which shall not be less than one year but which may extend to ten years, and with fine which may extend to twenty-five thousand rupees.

(3) Whoever possesses any liquor or intoxicating drug in which any substance referred to in sub-section (1) is mixed, knowing that such substance is mixed with such liquor or intoxicating drug shall, on conviction, be punishable with imprisonment for a term which shall not be less than one year but which may extend to ten years, and with fine which may extend to twenty-five thousand rupees.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), no person accused or convicted of an offence under sub-section (1) or sub-section (2) or sub-section (3) shall, if in custody, be released on bail or on his own bond, unless—

(a) the prosecution has been given an opportunity to oppose the application for such release, and

(b) where the prosecution opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence.

(5) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872),—

(a) where a person is prosecuted for an offence under sub-section (1) or sub-section (2), the burden of proving that he has not mixed or permitted to be mixed or, as the case may be, omitted to take reasonable precautions to prevent the mixing of, any substance referred to in that sub-section with any liquor or intoxicating drug shall be on him;

(b) where a person is prosecuted for an offence under sub-section (3) for being in possession of any liquor or intoxicating drug in which any substance referred to in sub-section (1) is mixed, the burden of proving that he did not know that such substance was mixed with such liquor or intoxicating drug shall be on him.

57B. *Order to pay compensation.*—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), the court when passing judgment in a case falling under section 57A may, if it is satisfied that death or grievous hurt has been caused to any person or persons by consumption of liquor or intoxicating drug sold in any place licensed under this Act, order the licensee of that place, whether or not he is convicted of an offence under the said section, to pay, by way of compensation, such amount as it appears to be just, to the legal representatives of the deceased or to the person or persons to whom grievous hurt has been caused.

(2) Any person aggrieved by an order under sub-section (1) may, within ninety days from the date of the order, prefer an appeal to the High Court:

Provided that no such appeal shall lie unless the amount ordered to be paid under sub-section (1) is deposited in the court which passed such order:

Provided further that the High Court may entertain the appeal after the expiry of the said period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.".

5. *Repeal and saving.*—(1) The Abkari (Amendment) Ordinance, 1984 (34 of 1984) is hereby repealed.

(2) Notwithstanding such repeal anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,

GOVERNOR.

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Reg. No. KL/TV(N)/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXIX] Trivandrum, Monday, 30th July 1984 / 8th Sravana 1906 [No. 685

GOVERNMENT OF KERALA

Law (Legislation-C) Department

NOTIFICATION

No. 10502/Leg.C3/84/Law. *Dated, Trivandrum, 30th July,* 1984/ *8th Sravana,* 1906.

The following Ordinance promulgated by the Governor on the 30th day of July, 1984, is hereby published for general information.

By order of the Governor,

K. SREEDHARAN,
Law Secretary.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1984.

32/3286/MC

ORDINANCE No. 59 OF 1984

THE KERALA CASHEW FACTORIES (REQUISITIONING) AMENDMENT ORDINANCE, 1984

Promulgated by the Governor of Kerala in the Thirty-fifth Year of the Republic of India.

AN

ORDINANCE

to amend the Kerala Cashew Factories (Requisitioning) Act, 1979.

Preamble.—WHEREAS under sub-clause (a) of caluse (2) of article 213 of the Constitution of India, the Kerala Cashew Factories (Requisitioning) Amendment Ordinance, 1984 (40 of 1984), promulgated by the Governor of Kerala on the 3rd day of May, 1984, will cease to operate on the 30th day of July, 1984;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 18th day of June, 1984 and ended on the 27th day of July, 1984;

AND WHEREAS difficulties will arise if the provisions of the said Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

AND WHEREAS instructions from the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution of India;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Cashew Factories (Requisitioning) Amendment Ordinance, 1984.

(2) It shall be deemed to have come into force on the 26th day of February, 1982.

2. *Act 6 of 1979 to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Cashew Factories (Requisitioning) Act, 1979 (6 of 1979) (hereinafter referred to as the principal Act), shall have effect subject to the amendment specified in section 3.

3. *Amendment of section 3.*—In section 3 of the principal Act, in sub-section (1), for the words "by order published in the Gazette, requisition that cashew factory for such period not exceeding five years as may be specified in the order and may make such further orders as appear to them to be necessary or expedient in connection with the requisition:", the following shall be substituted, namely:—

"by order published in the Gazette—

(a) requisition that cashew factory for such period not exceeding five years as may be specified in the order;

(b) extend the period of requisition by five years at a time;

(c) make such further orders as appear to them to be necessary or expedient in connection with the requisition:".

4. *Validation.*—Notwithstanding anything contained in any law for the time being in force, or in any judgment, decree or order of any court, or in any contract, agreement or other arrangement, where any cashew factory had been requisitioned under sub-section (1) of section 3 of the principal Act and vested in the Kerala State Cashew Development Corporation Limited under sub-section (3) of that section, before the commencement of the Kerala Cashew Factories (Requisitioning) Amendment Ordinance, 1984 (40 of 1984) and the period of such requisition and vesting had expired before such commencement but such cashew factory continued in the possession of the said Corporation until such commencement, such requisitioning and vesting shall be deemed to have been continued by orders under sub-section (1) and sub-section (3) of section 3 of the principal Act as amended by this Ordinance, and accordingly any action taken by the Government or the said Corporation in respect of such cashew factory shall be, and shall be deemed always to have been, valid and in accordance with law.

5. *Repeal and saving.*—(1) The Kerala Cashew Factories (Requisitioning) Amendment Ordinance, 1984 (40 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken, under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,
GOVERNOR.

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KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXIX] Trivandrum, Monday, 30th July 1984 / 8th Sravana 1906 [No. 686

GOVERNMENT OF KERALA

Law (Legislation-C) Department

NOTIFICATION

No. 10193/Leg-C3/84/Law. *Dated, Trivandrum, 30th July, 1984/ 8th Sravana, 1906.*

The following Ordinance promulgated by the Governor on the 30th day of July, 1984, is hereby published for general information.

By order of the Governor,

K. SREEDHARAN,
Law Secretary.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1984.

33/3284/MG.

ORDINANCE No. 62 OF 1984

THE KERALA LABOUR WELFARE FUND (AMENDMENT) ORDINANCE, 1984

Promulgated by the Governor of Kerala in the Thirty-fifth Year of the Republic of India.

AN

ORDINANCE

to amend the Kerala Labour Welfare Fund Act, 1975.

Preamble.—WHEREAS the Kerala Labour Welfare Fund (Amendment) Ordinance, 1984 (18 of 1984), was promulgated by the Governor of Kerala on the 23rd day of February, 1984;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 2nd day of March, 1984 and ended on the 27th day of March, 1984;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Labour Welfare Fund (Amendment) Ordinance, 1984 (22 of 1984), was promulgated by the Governor of Kerala on the 9th day of April, 1984;

AND WHEREAS a Bill to replace Ordinance 22 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 18th day of June, 1984 and ended on the 27th day of July, 1984;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 22 of 1984 will cease to operate on the 30th day of July, 1984;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Labour Welfare Fund (Amendment) Ordinance, 1984.

(2) Section 6 shall be deemed to have come into force on the 1st day of January, 1983 and the remaining provisions of this Ordinance shall be deemed to have come into force on the 25th day of February, 1984.

2. *Act 11 of 1977 to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Labour Welfare Fund Act, 1975 (11 of 1977) (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 to 9.

3. *Amendment of section* 2.—In section 2 of the principal Act,—

(1) in clause (d),—

(a) in sub-clause (i),—

(i) in the opening paragraph, for the words "for a period of one hundred and fifty days in an year", the words "for an aggregate period of not less than thirty days during the preceding twelve months" shall be substituted;

(ii) in item (B), for the words "seven hundred and fifty rupees", the words "one thousand and five hundred rupees" shall be substituted;

(b) the Explanation at the end shall be omitted;

(2) in clause (f),—

(a) for sub-clause (iii), the following sub-clause shall be substituted, namely:—

"(iii) any land used for growing tea, rubber, coffee, cardamom oil palm or cocoa, in which ten or more persons are employed or were employed in any day of the preceding twelve months;";

(b) in sub-clause (iv),—

(i) after the word, brackets and figure "clause (4)", the words, brackets and figure "or any shop within the meaning of clause (15)" shall be inserted;

(ii) the provisos shall be omitted.

4. *Amendment of section* 3.—In sub-section (2), of section 3 of the principal Act,—

(i) in clause (b), for the words, figures and brackets "Standing Order 20 of the Model Standing Orders issued under the Kerala Industrial Employment (Standing Orders) Rules, 1947", the words, figures and brackets "Standing Order 17 of the Model Standing Orders issued under the Kerala Industrial Employment (Standing Orders) Rules, 1958" shall be substituted;

(ii) clause (1) shall be omitted.

5. *Substitution of new section for section* 14.—For section 14 of the principal Act, the following section shall be substituted, namely:—

"14. *Interest on employers' and employees' contributions, unpaid accumulations or fines after notice of demand:*—(1) If an employer does not pay to the Fund any amount of the employers' and employees' contributions due under section 15 before the date specified in that section or does not pay to the Board any amount of the unpaid accumulations or fines realised from the employees within the time specified by or under this Act, the Commissioner may serve or cause to be served on such employer a notice to pay the amount within the period specified therein, which shall not be less than thirty days from the date of service of such notice.

(2) If the employer fails, without reasonable cause, to pay the amount specified in a notice issued under sub-section (1) within the period specified therein, he shall be liable to pay, in addition to that amount, to the Fund or the Board, as the case may be, by way of penalty, simple interest at the rate of nine per cent per annum from the date on which the amount fell due:

Provided that the Government may, subject to such conditions as may be prescribed, remit the whole or any part of the penalty in respect of any period.".

6. *Amendment of section* 15.—In section 15 of the principal Act, in sub-section (1), for the words "fifty paise" and "one rupee", the words "one rupee" and "two rupees" shall respectively be substituted.

7. *Insertion of new section* 28A.—After section 28 of the principal Act, the following section shall be inserted, namely:—

"28A. *Penalties for other offences.*—(1) Whoever contravenes, or make default in complying with, any of the provisions of this Act or of any rules or regulations made thereunder shall, if no penalty is provided in section 28 for such contravention or default, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(2) A court while passing a judgment convicting a person under sub-section (1) for making default in the payment of any amount due to the Fund or the Board shall also order that such amount be recovered from such person as if it were a fine imposed by such court and paid to the Fund or the Board, as the case may be.".

8. *Amendment of section* 29.—In sub-section (1) of section 29 of the principal Act, for the words "except on a complaint by, or with the previous sanction in writing of the Commissioner", the words "except on a complaint made by an Inspector with the previous sanction in writing of the Commissioner" shall be substituted.

9. *Amendment of section* 31.—In section 31 of the principal Act,—

(a) for the words "the date on which the offence is alleged to have been committed", the words "the date on which the offence came to the notice of the Inspector" shall be substituted;

(b) the following proviso shall be inserted at the end, namely:—

"Provided that no court shall take cognizance of an offence punishable by or under this Act after the expiry of three years from the date on which the offence is alleged to have been committed.".

10. *Repeal and saving.*—(1) The Kerala Labour Welfare Fund (Amendment) Ordinance, 1984 (22 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,
GOVERNOR.

Reg. No. KL/TV(N)/12

Government of Kerala
1984

KERALA GAZETTE

EXTRAORDINARY

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Vol. XXIX] Trivandrum, Monday, 30th July 1984 / 8th Sravana 1906 [No. 681

GOVERNMENT OF KERALA

Home (SS.A) Department

NOTIFICATION

No. 52231/SSA2/82/Home. *Dated, Trivandrum, 27th July, 1984.*

S. R. O. No. 882/84.—In exercise of the powers conferred by Section 3 of the Commissions of Inquiry Act, 1952 (Central Act 60 of 1952), the Government of Kerala hereby make the following further amendment to the Notification No. 52231/SSA2/82/Home dated 1st November, 1982, published as S. R. O. No. 1310/82 in the Kerala Gazette Extraordinary No.786 dated the 1st November, 1982 appointing a Commission of Inquiry to enquire into the irregularities alleged to have been committed in awarding contract for removal of embedded timber from Kakki Reservoir, namely:—

AMENDMENT

In the said Notification, in the third paragraph, for the words "within a period of twenty-one months" the words "within a period of twenty-seven months" shall be substituted.

By order of the Governor,
P. V. RADHALAKSHMI,
Additional Secretary to Government.

33/3277/MC.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purport.)

Government propose to extend the term of the Commission of Inquiry appointed to enquire into the irregularities alleged to have been committed on the award of contract for removal of timber from Kakki Reservoir for a further period of six months from 1-8-1984. The Notification is intended to achieve the above object.

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1984

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Vol. XXIX] Trivandrum, Monday, 30th July 1984 / 8th Sravana 1906 (Saka) [No. 682

GOVERNMENT OF KERALA

Taxes (D) Department

NOTIFICATION

No. 26347/D3/83/TD. *Dated, Trivandrum, 19th July,* 1984.

The following is the select list as approved by Government, of officers for promotion to the cadre of Deputy Director of Registration and District Registrars of the Registration Department prepared by the Departmental Promotion Committee for the year 1983-84.

SELECT LIST FOR 1983-84

1. *Deputy Director of Registration*
   1. Smt. K. Leela
2. *District Registrars*
   1. Shri K. Gopinathan
   2. Smt. T. G. Malathy
   3. Shri K. Natesan
   4. Shri R. Gopalakrishnan Nair
   5. Shri M. Gopinatha Pillai
   6. Shri D. Kunhanna
   7. Shri P. J. George

By order of the Governor,

U. MAHABALA RAO,

Commissioner and Secretary,
Taxes Dept. and Convener,
Departmental Promotion Committee
(Higher), Registration Dept.

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Government of Kerala
1984

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KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXIX] Trivandrum, Monday, 30th July 1984 / 8th Sravana 1906 (Saka) [No. 683

GOVERNMENT OF KERALA

Higher Education (A) Department

NOTIFICATION

No. 24433/A3/84/H. Edn. *Dated, Trivandrum, 24th July,* 1984.

S. R. O. No. 883/84.—In exercise of the powers conferred by section 3 of the Kerala Grandhasala Sangham (Taking over of Management) Act, 1977 (19 of 1977), the Government of Kerala hereby appoint Shri Therambil Ramakrishnan, M.L.A., as a Member in the Board of Control of the Kerala Grandhasala Sangham constituted under the Notification No. 5603/A3/84/H. Edn. dated the 17th February, 1984 published as S. R. O. No. 162/84 in the Kerala Gazette Extraordinary dated the 17th February, 1984, and make, the following consequential amendment to the said notification, namely:—

AMENDMENT

In the said notification, after item 9 and the entries against it, the following item and entries shall be added, namely:—

"10. Shri Therambil Ramakrishnan, M. L. A.—Member"

By order of the Governor,

M. S. K. RAMASWAMY,

Commissioner and Secretary to Government.

33/3279/MC.

Explanatory Note

(This is not part of the notification, but is intended to indicate its general purport.)

As per the notification No. 5603/A3/84/H. Edn. dated 17-2-1984 Government have constituted a new Board of Control consisting of nine members for the management of the Kerala Grandhasala Sangham. Now Government consider that one more person may be appointed as a member in the Board of Control. Hence this notification.

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1984

Reg. No. KL/TV(N)/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXIX] Trivandrum, Monday, 30th July 1984 / 8th Sravana 1906 [No. 687

GOVERNMENT OF KERALA

Law (Legislation-C) Department

NOTIFICATION

No. 10454/Leg. C3/84/Law

Dated, Trivandrum, 30th July, 1984/
8th Sravana, 1906.

The following Ordinance promulgated by the Governor on the 30th day of July, 1984, is hereby published for general information.

By order of the Governor,
K. SREEDHARAN,
Law Secretary.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS,
TRIVANDRUM, 1984.

33/3285/MC.

ORDINANCE No. 58 OF 1984

THE KERALA ESSENTIAL ARTICLES CONTROL ORDINANCE, 1984

Promulgated by the Governor of Kerala in the Thirty-fifth Year of the Republic of India.

AN

ORDINANCE

to provide, in the interest of the general public, for the control of the production, supply and distribution of, and trade and commerce in, certain articles.

Preamble.—WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, the Kerala Essential Articles Control Ordinance, 1984 (41 of 1984), promulgated by the Governor of Kerala on the 12th day of May, 1984, will cease to operate on the 30th day of July, 1984;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 18th day of June, 1984 and ended on the 27th day of July, 1984;

AND WHEREAS difficulties will arise if the provisions of the said Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

AND WHEREAS instructions from the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution of India;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Essential Articles Control Ordinance, 1984.

(2) It shall be deemed to have come into force on the 11th day of March, 1982.

2. *Definitions.*—In this Ordinance, unless the context otherwise requires,—

(a) "essential article" means any article, not being an essential commodity as defined in the Essential Commodities Act, 1955 (Central Act

10 of 1955), which may be declared by the Government by notified order to be an essential article;

(b) "notified order" means an order notified in the Gazette;

(c) "undertaking" means any undertaking by way of any trade or business and includes the occupation of handling, loading or unloading goods in the course of transport.

3. *Powers to control production, supply, distribution, etc., of essential articles.*—(1) If the Government are of opinion that it is necessary or expedient so to do for maintaining or increasing the supplies of any essential article or for securing their equitable distribution and availability at fair prices, they may, by notified order, provide for regulating or prohibiting the production, supply and distribution thereof and trade and commerce therein.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide—

(a) for regulating by licences, permits or otherwise the production or manufacture of any essential article;

(b) for controlling the price at which any essential article may be bought or sold;

(c) for regulating by licences, permits, or otherwise the storage, distribution, transport, disposal, acquisition, use or consumption of any essential article;

(d) for prohibiting the withholding from sale of any essential article ordinarily kept for sale;

(e) for requiring any person holding in stock any essential article to sell the whole or a specified part of the stock to the Government or to an officer or agent of the Government or to such other person or class of persons and in such circumstances as may be specified in the order;

(f) for regulating or prohibiting any class of commercial or financial transactions relating to any essential article, which, in the opinion of the authority making the order, are, or if unregulated are likely to be detrimental to the public interest;

(g) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters;

(h) for requiring persons engaged in the production, supply or distribution of, or trade or commerce in, any essential article to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto as may be specified in the order,

(i) for regulating the processing of any essential article;

(j) for exercising over the whole or any part of an existing undertaking, such functions of control and subject to such conditions, as may be specified in the order;

(k) for any incidental and supplementary matters including in particular the entering and search of premises, vehicles, vessels and aircraft, the seizure by a person authorised to make such search of any article in respect of which such person has reason to believe that a contravention of the order has been, is being or is about to be committed, the grant or issue of licences, permits or other documents, and the charging of fees therefor.

(3) Where any person sells any essential article in compliance with an order made with reference to clause (e) of sub-section (2), there shall be paid to him the price therefor, as hereinafter provided:—

(a) where the price can, consistently with the controlled price, if any, fixed under this section, be agreed upon, the agreed price;

(b) where no such agreement can be reached, the price calculated with reference to the controlled price, if any;

(c) where neither clause (a) nor clause (b) applies, the price calculated at the market rate prevailing in the locality at the date of sale.

4. *Delegation of powers.*—The Government may, by notified order, direct that the power to make orders shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by such officer or authority subordinate to the Government, as may be specified in the direction.

5. *Effect of orders inconsistent with other enactments.*—Any order made under section 3 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Ordinance or in any instrument having effect by virtue of any enactment other than this Ordinance.

6. *Penalties.*—If any person contravenes any order made under section 3,—

(a) he shall be punishable—

(i) in the case of an order made with reference to clause (g) or clause (h) of sub-section (2) of that section, with imprisonment for a term which may extend to one year and shall also be liable to fine; and

(ii) in the case of any other order, with imprisonment for a term which may extend to three years and shall also be liable to fine:

Provided that if the court is of opinion that a sentence of fine only will meet the ends of justice, it may, for reasons to be recorded, refrain from imposing a sentence of imprisonment; and

(b) any property in respect of which the order has been contravened or such part thereof as to the court may seem fit shall be forfeited to the Government:

Provided that if the court is of opinion that it is not necessary to direct forfeiture in respect of the whole or, as the case may be, any part of the property, it may, for reasons to be recorded, refrain from doing so.

7. *Attempt and abetment.*—Any person who attempts to contravene or abets a contravention, of any order made under section 3, shall be deemed to have contravened that order.

8. *False statements.*—If any person,—

(i) when required by any order made under section 3 to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false, or does not believe to be true; or

(ii) makes any such statement as aforesaid in any book, accounts, record, declaration, return or other document which he is required by any such order to maintain or furnish,

he shall be punishable with imprisonment for a term which may extend to three years, or with fine or with both.

9. *Offences by companies.*—(1) If the person contravening an order made under section 3 is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate, and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

10. *Cognizance of offences.*—No court shall take cognizance of any offence punishable under this Ordinance except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in section 21 of the Indian Penal Code (Central Act 45 of 1860).

11. *Presumption as to orders.*—Where an order purports to have been made and signed by an authority in exercise of any power conferred by or under this Ordinance, a court shall presume that such order was so made by that authority within the meaning of the Indian Evidence Act, 1872 (Central Act 1 of 1872).

12. *Burden of proof.*—Where any person is prosecuted for contravening any order made under section 3 which prohibits him from doing an act or being in possession of a thing without lawful authority or without a permit, licence, or other document, the burden of proving that he has such authority, or as the case may be, the requisite permit, licence, or other document shall be on him.

13. *Protection of action taken in good faith.*—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order made under section 3.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made under section 3.

14. *Validation.*—Notwithstanding the expiry of the Kerala Essential Articles Control (Temporary Powers) Act, 1961 (3 of 1962) (hereinafter referred to as the said Act) on the 11th day of March, 1982,—

(a) anything purporting to have been done or any action purporting to have been taken after the 11th day of March, 1982, under or in pursuance of the said Act shall be deemed to have been done or taken under the corresponding provision of this Ordinance.

(b) any notified order made under the said Act and in force on the 11th day of March, 1982, shall be deemed to have continued in force after that date as if such notified order had been made under the corresponding provision of this Ordinance,

and accordingly anything done or purporting to have been done or any action taken or purporting to have been taken under or in pursuance of the said Act or any notified order made thereunder after the 11th day of March, 1982, shall not be deemed to be invalid or ever to have been invalid merely on the ground that the said Act had ceased to be in force on the said date.

15. *Saving.*—Nothing contained in this Ordinance shall render any person liable to be convicted of an offence in respect of anything done or omitted to be done by him after the 11th day of March, 1982 and before the date of publication of the Kerala Essential Articles Control Ordinance, 1984 (41 of 1984), in the Gazette.

16. *Repeal and saving.*—(1) The Kerala Essential Articles Control Ordinance, 1984 (41 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Ordinance.

P. RAMACHANDRAN,
GOVERNOR.

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GOVERNMENT OF KERALA

Health (G) Department

NOTIFICATIONS

No. 32283/G3/84/HD. *Dated, Trivandrum, 18th July,* 1984.

(i)

S. R. O. No. 884/84.—In exercise of the powers conferred by sub-section (1) of section 9 of the Prevention of Food Adulteration Act, 1954 (Central Act 37 of 1954), and in supersession of Notification (I) No. 6273/G3/82/HD dated the 21st February, 1982 published as S. R. O. No. 306/82 in the Kerala Gazette extraordinary No. 136 dated the 2nd March, 1982 the Government of Kerala hereby appoint Sri M. Abdul Shukkur, Health Inspector Grade-I, Palghat Municipality to be Food Inspector for the purposes of the said Act and assign to him the area within the Palghat Municipality as the local area within which he shall exercise his powers under the said Act.

(ii)

S.R.O. No. 885/84.—In exercise of the powers conferred by sub-section (1) of section 20 of the Prevention of Food Adulteration Act, 1954 (Central Act 37 of 1954), and in supersessions of Notification (II) No. 6273/G3/82/HD dated the 21st February, 1982 published as S.R.O. No. 307/82 in the Kerala

Gazette extraordinary No. 136 dated the 2nd March 1982, the Government of Kerala hereby authorise Sri M. Abdul Shukkur appointed as Food Inspector under sub-section (1) of section 9 of the said Act in Palghat Municipality to institute prosecutions for offences under the said Act within his jurisdiction.

By order of the Governor,
M. G. K. MURTHY,
Secretary.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

Sri M. Abdul Shukkur, Food Inspector, has been posted as Food Inspector of the Palghat Municipality. It is necessary to appoint him as Food Inspector under the Prevention of Food Adulteration Act and authorise him to institute prosecutions for offences under the Act. The notifications are for the above purpose.

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